



BETTY T. YEE - 余淑婷

ACTING MEMBER  
STATE BOARD OF EQUALIZATION

November 1, 2005

## WHEN ARE ART SALES TAXED?

The information contained in this notice responds to several inquiries from art gallery owners and art dealers about the taxation of art sales. This notice contains frequently asked questions and responses to assist you in determining when you should collect sales tax for your California sales of art.

### Should I pay sales tax on my art sales?

Deleted: collect

Deleted: for

Yes. Generally, sales tax applies to sales of art by California art galleries. However, you need not collect tax on sales you can prove were to out-of-state or foreign addresses or were sales for resale.

Deleted:

### What should I know about sales to out-of-state and foreign addresses?

A sale is generally not taxable when the item is shipped or delivered to an out-of-state or foreign destination pursuant to the sales contract. You must ship the item directly to the purchaser out of state using your own business vehicles, the U.S. Postal Service, or a common carrier; or you must deliver it to a freight forwarder, customs broker, or similar export shipping agent. If the purchaser picks up the item in state, sales tax will apply even if the purchaser takes it out of state.

Deleted: the purchaser does not intend to use the merchandise in this state and

To claim an exemption for sales to interstate or foreign addresses, you must retain records of delivery or shipment such as shipping invoices, bills of lading, postage receipts, or parcel post log books. It is also recommended that you obtain a written statement declaring the property was purchased for use outside of California and evidence of the customer's out-of-state or foreign address.

Note: The buyer may end up owing use tax in the recipient state or country, but this is an issue for your customer to handle. You may want to advise your customer that state governments share information with each other about destination addresses of out-of-state shipments.

### What if I know my customer also has a California residence?

If you deliver property outside of California to a customer you know is a resident of California, the property is regarded as having been purchased for use in California and is subject to tax. However, if you obtain a written statement from the customer that the property was purchased for use at a designated point or points outside of California, then the property is not subject to tax.

## Can you give some examples?

Example 1: Art Buyer Audrey comes to your gallery, purchases a work of art, and has it delivered to her home somewhere in California. You must pay sales tax and may collect sales tax reimbursement from Art Buyer Audrey because Art Buyer Audrey took delivery in California.

Deleted: or collect

Deleted: the

Example 2: Art Buyer Bill comes to your gallery, purchases a work of art, and has the gallery ship it to an address out of state. Could this sale be tax exempt from California sales tax? It may very well be.

However, do you have reason to know that Art Buyer Bill has a California residence? For example, if Art Buyer Bill paid with a check or credit card, you would have checked some form of identification. If a check, driver's license, other form of identification, or any other information Art Buyer Bill provides you shows that he has an address in California, it is important that you have him complete and sign a written statement that the art in question is to be used at a designated point or points outside California. Unless you obtain this statement, the sale is taxable. Because Art Buyer Bill is known to have a California address, it is imperative to keep this written statement should you ever be audited.

## What if my customer gives me a resale certificate?

Your customers may issue you resale certificates when they buy items they will sell in their business operations. When you accept a valid resale certificate in good faith and in a timely manner, your sale is not taxable. A resale certificate will be considered timely if it is taken at any time at or prior to delivery of the item to the purchaser, or at any time prior to billing the purchaser.

Any document, including a letter, note, purchase order, or preprinted form, can serve as a resale certificate, provided it contains all of the following information:

- The name and address of the purchaser's business.
- The seller's permit number of the purchaser.
- A description of the property to be purchased.
- A statement that the described property is being purchased for resale. The document must contain words that state the property will be resold or is for resale. The use of words such as "nontaxable," "tax-exempt," or similar terms is not acceptable.
- The date of the document.
- The signature of the purchaser, purchaser's employee, or authorized representative.

If you do not receive a resale certificate, you should charge tax because the burden of proving a sale is for resale is on you in the absence of a valid resale certificate.

## Available State Board of Equalization (BOE) Publications and Information

BOE Publication #101, *Sales Delivered Outside California*

BOE Publication #103, *Sales for Resale*

Publications, forms, and other information are available on the BOE website at [www.boe.ca.gov](http://www.boe.ca.gov) or by calling the BOE Information Center toll-free at 1-800 400-7115.